



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/509,416

09/24/2004

Josef Lauter

DE 020075

1931

24737 7590 10/03/2007
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

THOMAS, JONATHAN B

ART UNIT	PAPER NUMBER
----------	--------------

3709

MAIL DATE	DELIVERY MODE
-----------	---------------

10/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,416

Applicant(s)

LAUTER ET AL.

Examiner

Jonathan B. Thomas

Art Unit

3709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the contents of the flowchart in Fig. 2 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In the instant case the disclosure does not appear to show how a person having ordinary skill in the art at the time of the invention would create a high priority alarm as opposed to any other priority. For purposes of this action all alarms will be interpreted as having high priority.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated as claimed by Ferguson 6,454,708.

Regarding claim 1, Ferguson teaches a wearable heart monitoring system for monitoring of a cardiac arrhythmia (Col. 8 ll. 27-42 and Col. 12 ll. 34-56), ECG sensors

Art Unit: 3709

for providing patient heart data (Col. 8 ll. 27-42), a conditioning and interpreting circuitry for processing the heart data (Col. 10 ll. 1-26), alarm generation means for generating an alarm (Col. 12 ll. 34-56), a real-time evaluator for measuring and analyzing a histogram of a temporal distribution of an interval between successive corresponding characteristic peaks in an ECG spectrum during a plurality of successive heart cycles (Col. 25 ll. 12-29), the alarm generation means being arranged to generate an alarm based on the analysis of said histogram (Col. 12 ll. 34-56).

Regarding claim 2, Ferguson teaches an RF-link for transmitting a further alarm to a remote monitoring station (Col. 2 ll. 28-37).

Regarding claim 3, Ferguson teaches ECG sensors being housed on an elastic belt (Col. 8 ll. 44-67).

Regarding claim 4, Ferguson teaches electrical wiring for arranging electrical connections of the monitoring system, said wiring being integrated in the belt Fig. 2.

Regarding claim 7, Ferguson teaches a motion sensor (Col. 9 ll. 55-61).

Regarding claim 8, Ferguson teaches a method for alerting a patient for an substantial probability of a cardiac arrest event (Col. 12 ll. 34-56), said method being based on results of continuous monitoring of a cardiac activity by means of a cardiac monitoring system comprising a set of electrodes 17 and 18, a conditioning and interpreting circuitry and alarm generation means (Col. 12 ll. 34-56), characterized in that said method comprises the steps of: performing a continuous acquisition of data related to the cardiac activity by means of the electrodes (Col. 9 ll. 30-36); processing the data for extracting a characteristic parameter by means of the conditioning and

Art Unit: 3709

interpreting circuitry (Col. 12 ll. 34-56); performing a classification of the extracted characteristic parameter (Col. 12 ll. 34-56); generating an alarm with alarm means in case the characteristic parameters falls within an alarm-relevant category (Col. 12 ll. 34-56).

Regarding claim 9, Ferguson teaches a method for alerting a patient for an substantial probability of a cardiac arrest event, characterized in, that an alarm with a high priority is generated in case of a sudden cardiac arrest (Col. 12 ll. 34-56).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson 6,454,708 in view of Segalowitz 5,307,818.

Regarding claim 5, Ferguson teaches in invention as described above however it does not teach the following claimed limitation: a wire material having substantially the same elasticity as a material constituting the elastic belt.

Segalowitz teaches, in the same field of endeavor, elastic strip 336b and elastic conductive member 371a suitable for stretching together when the electrodes are positioned remotely.

Art Unit: 3709

It would have been obvious to a person having ordinary skill in the art at the time of invention to modify the invention of Ferguson in view of Segalowitz in order to prevent the wires from breaking or severing (Col. 21 ll. 35-42).

Regarding claim 6, Ferguson teaches at least two electrodes 17 and 18.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan B. Thomas whose telephone number is (571)270-3082. The examiner can normally be reached on Mon-Fri 7:30-5 EST. Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 5712724868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

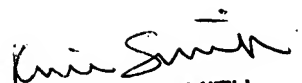
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/509,416

Page 7

Art Unit: 3709

9/28/2007


KIMBERLY S. SMITH
PRIMARY EXAMINER

10/1/07